WASHINGTON, DC—Last week, The U.S. Treasury Department released guidance on the Obama Administration's Build America Bonds and School Bonds programs, which will help states and localities pursue needed capital projects, such as infrastructure development and public school construction. The guidance provides state and local governments with the answers they need in order to begin issuing these bonds with confidence about how these crucial federal payments will be made.

"These bonds will support the economy now by preventing layoffs at our schools and municipalities," said Congressman Joe Sestak (PA-07). "They have the additional benefits of making our existing infrastructure more energy efficient and sustainable, while creating a healthier learning and working environment and reducing the burden on our local municipalities and school districts at a time when they are struggling to pay the bills while not raising taxes."

The information below will also be added to the ARRA Resource Directory that Congressman Sestak and his staff maintain to provide a comprehensive listing of programs and funding made available through the stimulus (Recovery Act) along with the latest information on implementation and contact information. An updated version of the directory is posted every Friday evening on his Web site: www.sestak.house.gov .

Build America Bonds

Build America Bonds are a tax credit bond in lieu of a tax-exempt bond. In determining the portion of interest, the expense that is allocable to investments in tax-exempt municipal bonds is taken into consideration. Tax credit bond differ from tax-exempt bonds in two-ways: (1) interest paid on tax credit bonds is taxable; and (2) a portion of the interest paid on tax credit bonds takes the form of a Federal tax credit. The Federal tax credit offsets a portion of the cash interest payment that the State or local government would otherwise need to make on the borrowing. This choice can be made by states and municipalities in 2009 and 2010. This will allow states and municipalities to receive direct payment from the Federal government equal to the subsidy that would have otherwise been delivered through the Federal tax credit for bonds.

Build America Bonds provide a deeper federal subsidy to state and local governments (equal to 35 percent of the taxable borrowing cost) than traditional tax-exempt bonds and because of this federal subsidy payment, state and local governments will have lower net borrowing costs.

Also, this feature should make such Build America Bonds attractive to a broader group of investors than typically invest in more traditional state and local tax-exempt bonds.

A simple example: If a state or local government were to issue a Build America Bond and paid to the bondholder $100 of interest on the bond, the Treasury Department would make a payment directly to the state or local government of $35. Thus, the state or local government's net interest expense would be only $65 on a bond that actually pays $100 to the bondholder.

The capital projects these bonds would fund include work on public buildings, courthouses, schools, transportation infrastructure, government hospitals, public safety facilities and equipment, water and sewer projects, environmental projects, energy projects, government housing projects and public utilities.

GUIDANCE TO STATES ON BUILD AMERICA BONDS

The IRS is releasing Notice 2009-26 to provide state and local governments with prompt guidance on implementation of the new direct federal subsidy payment procedures for Build America Bonds so that issuers can begin issuing these bonds with confidence about how these federal payments will be made. This guidance covers the direct federal subsidy payment procedures regarding:

how (on new IRS Form 8038-CP available now) and when (by 45 days before an interest payment date) to request these payments;
when the IRS will begin making these payments (July 1, 2009);
how to make necessary elections to issue these bonds (in writing in an issuer's books and records);
how to satisfy the information reporting requirement for these bonds (modified IRS Form 8038-G); and
future implementation plans (electronic platform in 2010).

Finally, the Notice solicits public comments on all of the plans for this program.

School Bonds

In addition, Treasury also announced guidance on allocations of national bond volume cap authorizations for two innovative tax credit bond programs for schools, known as Qualified School Construction Bonds and Qualified Zone Academy Bonds (QZAB). The American Recovery and Reinvestment Act of 2009 provided new or expanded authorizations, respectively, for these two programs.

The stimulus created a new category of tax credit bonds, Qualified School Construction Bonds for the construction, rehabilitation, or repair of public school facilities or for the acquisition of land on which a public school facility will be constructed. The stimulus set a national limit of $22 billion ($11 billion allocated initially in 2009 and the remainder allocated in 2010) on the amount of qualified school construction bonds that may be issued by State and local governments.

The stimulus allowed an additional $1.4 billion of QZAB issuing authority to State and local governments in 2009 and 2010, which can be used to finance renovations, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy. In general, a qualified zone academy is any public school (or academic program within a public school) below college level that is located in an empowerment zone or enterprise community and is designed to cooperate with businesses to enhance the academic curriculum and increase graduation and employment rates. QZABs are a form of tax credit bonds which offer the holder a Federal tax credit instead of interest.

These tax credit bond programs allow state and local governments to finance authorized public school construction projects and other eligible costs for public schools with interest-free borrowings. These tax credit bond programs provide this federal subsidy to state and local governments for their borrowing costs by giving investors a federal tax credit in an amount designed to replace 100 percent of the interest payments on the bonds. As a result, state and local governments are able to issue these bonds without interest cost.

The guidance that Treasury and the IRS are issuing today allocates the national bond volume authority for these school bond programs among the States and certain large local school districts under statutory formula. These volume cap allocations are important to enable state and local governments to use these low-cost borrowing programs to finance school projects to promote economic recovery and job creation.

For Qualified School Construction Bonds, the guidance provides for division of the $11 billion national bond volume authorization for 2009 among the states and 100 largest school districts based on levels of Federal school funding.

For Qualified Zone Academy Bonds, the guidance provides for division of the $1.4 billion national bond volume authorizations for each of 2008 and 2009 among the states based on poverty levels.

To view the guidance and required forms, please visit: http://www.irs.gov/newsroom/article/0,,id=206044,00.html

Born and raised in Delaware County, former 3-star Admiral Joe Sestak served in the Navy for 31 years and now serves as the Representative from the 7th District of Pennsylvania. He led a series of operational commands at sea, including Commander of an aircraft carrier battle group of 30 U.S. and allied ships with over 15,000 sailors and 100 aircraft that conducted operations in Afghanistan and Iraq. After 9/11, Joe was the first Director of "Deep Blue," the Navy's anti-terrorism unit that established strategic and operations policies for the "Global War on Terrorism." He served as President Clinton's Director for Defense Policy at the National Security Council in the White House, and holds a Ph.D. in Political Economy and Government from Harvard University. According to the office of the House Historian, Joe is the highest-ranking former military officer ever elected to the U.S. Congress.

###